

City County

APPLICATION FOR THE PLANNING CLEARANCE FOR A BUILDING PERMIT

SUBMITTALS REQUIRED: (2) Plot Plans showing Parking, Landscaping, Setbacks to all property lines, and all streets which abut the parcel:

BLDG ADDRESS: <u>1175 Texas Avenue</u>	SQ FT OF BLDG: <u>80,000 sq. ft.</u>
Meets & Bounds	
SUBDIVISION: <u>East 1/2 S-E 1/4, S-E 1/4, Sect. 11, 1-S, 1 West</u>	SQ FT OF LOT: <u>17.2 Acres</u>
FILING # _____ BLK # _____ LOT # _____	NUMBER OF FAMILY UNITS: <u>NONE</u>
TAX SCHEDULE NUMBER:	NUMBER OF BUILDINGS ON PARCEL
<u>2945-114-00-927</u>	<u>BEFORE THIS PLANNED CONSTRUCTION</u>
PROPERTY OWNER: <u>Mesa College</u>	<u>7</u>
<u>State of Colo.-State Bldg.</u>	USE OF ALL EXISTING BUILDINGS:
ADDRESS: <u>P.O. Box 2647, Grand Junctn., CO 81502</u>	<u>College Campus</u>
PHONE: <u>(303)248-1334</u>	

DESCRIPTION OF WORK AND INTENDED USE:
Existing 3-story bldg., Demo.- New 3-story
Learning Resource Center

FOR OFFICE USE ONLY

ZONE: <u>P2</u>	FLOOD PLAIN: YES <input type="radio"/> NO <input checked="" type="radio"/>
SETBACKS: F <u>65' 4"</u> S <u>0'</u> R <u>0'</u>	GEOLOGIC HAZARD: YES <input type="radio"/> NO <input checked="" type="radio"/>
RIGHT OF WAY: <u>100' required</u>	CENSUS TRACT NUMBER: _____
MAXIMUM HEIGHT: <u>65'</u>	SPECIAL CONDITIONS: <u>*MUST DEED</u>
PARKING SPACES REQUIRED: <u>EXISTING/AS SHOWN</u>	<u>R.O.W. REQUIRED OFF</u>
LANDSCAPING/SCREENING: _____	<u>on plot plan</u>
<u>C.O. released 12-10-86 per directive</u>	<u>CITY PRIOR TO ISSUANCE OF</u>
<u>from C.M. & City Atty. M.S.</u>	<u>C.O. 10' From South prop. line.</u>

ANY MODIFICATION TO THIS APPROVED PLANNING CLEARANCE MUST BE APPROVED IN WRITING BY THIS DEPARTMENT.
THE STRUCTURE APPROVED BY THIS APPLICATION CANNOT BE OCCUPIED UNTIL A CERTIFICATE OF OCCUPANCY (CO) IS ISSUED BY THE BUILDING DEPARTMENT (Section 307, Uniform Building Code).
ANY LANDSCAPING REQUIRED BY THIS PERMIT SHALL BE MAINTAINED IN AN ACCEPTABLE AND HEALTHY CONDITION. THE REPLACEMENT OF ANY VEGETATION MATERIALS THAT DIE OR ARE IN AN UNHEALTHY CONDITION SHALL BE REQUIRED.

I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS APPLICATION AND THE ABOVE IS CORRECT AND I AGREE TO COMPLY WITH THE REQUIREMENTS ABOVE. FAILURE TO COMPLY SHALL RESULT IN LEGAL ACTION.

James Gatterson
SIGNATURE
241-7206

DATE APPROVED: 2-8-85
APPROVED BY: James Shelton



Grand Junction Planning Department
559 White Avenue, Room 60
Grand Junction, Colorado 81501-2643
(303) 244-1648

September 10, 1986

Mr. Bill Conklin
Director of Physical Plant
P.O. Box 2647
Grand Junction, CO 81502

CERTIFIED

RE: The Certificate of Occupancy for the Learning Resources Center

Dear Mr. Conklin:

In response to your request for a letter of official notification regarding the withholding of final release of the Certificate of Occupancy (C.O.), the reason is outlined below.

On February 8, 1985 a clearance for building permit was released for the construction of the Learning Resource Center (photocopy enclosed). A condition of the release of planning clearances is that any needed right-of-way (R.O.W.) be deeded at the time of development. An additional ten (10) feet of R.O.W. is needed for North Avenue along the full width of the Mesa College property to provide the entire 100 feet of R.O.W. needed for a major arterial street.

This requirement was specified on the planning clearance prior to placement of the signature by Mesa College's authorized representative, Mr. James E. Patterson.

The city policy of requiring dedication of needed right-of-way has been common for many years here as well as in many other communities. The planning clearance could not have been released without this condition and the signature affixed on the original clearance.

I have agreed to the release of a temporary C.O. until this matter can be concluded, providing the right-of-way is deeded fairly soon.

I will be glad to answer any further questions you might have relating to this procedure.

Sincerely,

Michael E. Sutherland
City Development Planner

MES/tt

Enclosure

xc: Mr. Gerald Ashby
Mr. Roy Anderson

CITY OF GRAND JUNCTION, COLORADO

MEMORANDUM

Reply Requested

Yes No

Date

December 9, 1986

To: (From:) Karl Metzner From: (To:) Mark Achen
Planning Department *mka*

SUBJECT: Right-of-way requirement for Mesa College Learning Resource Center

City Attorney Ashby recommends we drop the demand for additional North Avenue right-of-way and issue the certificate of occupancy for the Learning Resource Center. Gerry believes that in the future, when the additional right-of-way might be needed, the State Highway Department can obtain it from Mesa College. He feels that since North Avenue is a State highway, the these two state agencies are best left to resolve the problem between themselves.

Please proceed with the certificate of occupancy if all other requirements have been met.

cc: City Attorney Ashby
Public Works & Utilities Director Shanks

mka

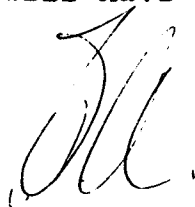
attachment

Mark:

On the issue of the certificate of occupancy for the Mesa College Learning Resource Center.

I talked with Mr. Pech of the AG's office this morning. He is quoting me all sorts of law as to our ability to seek the right-of-way from the campus land for ~~12th~~ North Avenue. He has talked to the people with the state highway department who assure him that they have no near intention of widening North Avenue. There is also a procedure the state uses in ~~x~~ obtaining ~~rightxofxay~~ right-of-way from other state agencies.

It would be my recommendation that we not go to war on this one. I think North Avenue will remain under the jurisdiction of the state and any ~~rightxofxay~~ right-of-way issue will be resolved in house. There is always the issue too as to whether we have the clout to require the dedication from the state. We will have a better time to litigate this I am sure.

A handwritten signature in cursive script, appearing to be the initials 'M' or 'M.' followed by a flourish.



Handwritten: Craft no 22
5-3-3

Duane Woodard
Attorney General
Charles B. Howe
Chief Deputy Attorney General
Richard H. Forman
Solicitor General

The State of Colorado
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street
Denver, Colorado 80203
Phone 866-3611 & 866-3621

September 25, 1986

Bourtai Hargrove, Esq.
City Attorney
Municipal Courthouse
520 Rood Avenue
Grand Junction, CO 81501

Re: Issuance of a certificate of occupancy for
the Mesa College Learning Resources Center

Dear Mr. Hargrove:

Mr. William Conklin, Director of Physical Plant at Mesa College, has advised me that Mr. Michael Sutherland of the Grand Junction Planning Department is refusing to issue a permanent certificate of occupancy for the college's new Learning Resources Center because the college has not dedicated a ten foot wide strip of the campus abutting North Avenue to the city as a right-of-way. The correspondence between Mr. Conklin and Mr. Sutherland reflects that dedication of this right-of-way was made a special condition for issuance of the certificate of occupancy by the "Application for the Planning Clearance for a Building Permit" executed by one James Patterson, a supervisor for Roche Construction Company (the general contractor for the Learning Resources Center Project).

Mr. Conklin has asked this office for advice regarding the city's refusal to issue a permanent certificate of occupancy. In view of the general rule that the state and its instrumentalities are immune from local zoning and land-use regulations, see, e.g., Reber v. South Lakewood Sanitation District, 147 Colo. 70, 362 P.2d 877 (1961); see also City of Boulder v. Regents of University of Colorado, 179 Colo. 420, 501 P.2d 123 (1972), I think it unlikely that the city can enforce the right-of-way condition against Mesa College or its governing board, the Trustees of the Consortium of State Colleges in Colorado. However, before I take any further action in this matter, I would appreciate clarification of the legal basis for the city's refusal to issue the certificate of occupancy by - - i.e. citations to the specific provisions of Grand Junction's Code of Ordinances and/or zoning ordinances which authorize the city to demand dedication of a right-of-way as a condition of granting an application for a planning clearance for a building permit.

Bourtai Hargrove, Esq.
September 25, 1986
Page 2

Thank you.

FOR THE ATTORNEY GENERAL



BRUCE M. PECH
Assistant Attorney General
Human Resources Section

BMP/rtl

cc: Mr. William Conklin

Nick Sutherland



October 22, 1986

City of Grand Junction, Colorado
81501-2668
250 North Fifth Street

Mr. Bruce M. Pech, Assistant Attorney General
Human Resources Section
State Services Building
1525 Sherman Street
Denver, Colorado 80203

Re: Issuance of a certificate of occupancy for the
Mesa College Learning Resources Center

Dear Mr. Pech:

First, let me apologize for this late response to your letter of September 25, 1986.

The section of our Code of Ordinances under which we demand right-of-way on the issuance of a building permit is Section 5-3-3 of Chapter 32. It reads:

5-3-3 PARTIALLY DEDICATED STREET - No building permit shall be issued for the construction of a structure, an addition to an existing structure, or a change of use in an existing structure, on a parcel abutting that side of a street from which all dedication has not been made as required by the adopted street classification. Upon receipt of the appropriate deed, the building permit shall be issued.

We uniformly request right-of-way under this section. I am not sure that we have had occasion to demand this of the State or the Federal governments, but the demand would be made on the theory that the development is a part of the cause for the need for eventual expansion of the roadway. I do not think that the State is free of this obligation under the current zoning and development theories. We believe the right-of-way should be dedicated.

If you are not aware, in this instance, the roadway for which the additional right-of-way is being sought is a part of the State system. As your client in this instance is also a part of the State system, it might well be that something can be worked out between you. I might add that we have consistently acquired right-of-way in this manner whether the road was on our system or that of the State.

If you have further questions, I promise to respond to them more quickly.

Very truly yours,

Gerald J. Ashby
Gerald J. Ashby
City Attorney

GJA:jc